United Nations A/HRC/WG.6/27/NLD/3

General Assembly

Distr.: General
24 February 2017

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-seventh session
1–12 May 2017

Summary of stakeholders' submissions on Netherlands.

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 18 stakeholders' submissions[1] to the universal periodic review, presented in a summarized manner owing to word-limit constraints. A separate section is provided for the contribution by the national human rights institution that is accredited in full compliance with the Paris Principles.

II. Information provided by the national human rights institution accredited in full compliance with the Paris Principles[2]

2. The Netherlands Institute for Human Rights (NIHR) recommended ratifying the Optional Protocols to the Convention on the Rights of the Child, to the International Covenant on Economic, Social and Cultural Rights and to the International Convention on the Rights of Persons with Disabilities.[3]

3. The Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention against Torture did not apply to the Caribbean part of the Netherlands.[4]

4. Regarding recommendation no. 98.27[5] from the universal periodic review of 2012 (UPR) on the formulation of a human rights action plan, NIHR reported that the scope of

[1] The present document was not edited before being sent to United Nations translation services.

Please recycle

the National Action Plan on Human Rights, which was adopted in 2013 was limited and its implementation was neither monitored nor evaluated.[6]

5. In 2015 and 2016, the Government invested in improving the registration of complaints of cases of islamophobia, and racial and religious discrimination. Nevertheless, only a limited number of complains submitted to Anti-Discrimination Services and of reports on discrimination filed with the police had led to the Public Prosecution Service starting up criminal proceedings.[7]

6. Regarding recommendation no. 98.44[8] on discrimination in the labour market, NIHR noted that discrimination in labour market had been a serious and structural problem.[9] NIHR referred to reports that highlighted the problem of discrimination against migrants from non-Western countries to access to the labour market as stereotypes and prejudices had a negative impact in their recruitment.[10] Women had experienced discrimination in employment owing to pregnancy and motherhood. Women got paid less than men for the work of equal value.[11] Discrimination of minority women due to the wearing headscarf was still common in employment. Transgender persons had faced reportedly challenges of accessing the labour market.[12]

7. Similarly, persons with disabilities had encountered discrimination in employment. The 2015 law introduced employment support scheme for persons with disabilities by setting targets for private and public employers to recruit persons with disabilities and envisaging fines in case those targets were not met. However, this support scheme was limited to certain types of disabilities.[13]

8. Regarding recommendation no. 98.39,[14] NIHR reported that the prevalence of violence against women was high and noted the absence of sufficient data to monitor whether the state approach to prevent and combat gender-based violence was effective.[15]

9. Regarding recommendation no. 98.84,[16] NIHR stated that under Dutch law it was permitted to place a minor in a police cell when the minor was suspected of having committed a crime. Under the criminal law, convicted adolescents of 16 or 17 years old could be placed in detention with adults.[17]

10. Regarding recommendation no. 98.102[18] regarding persons with disabilities, NIHR noted the ratification of CRPD in 2016 and amendments made to several laws subsequently. The amended legislation included prohibition of discrimination against persons with disabilities in the provision of goods or services. Under the law on elections, polling stations should be accessible for persons with physical disabilities. NIHR stated that the Government should ensure that voting ballots are also accessible for persons with disabilities.[19]

11. Poverty had been on the rise as a result of the financial crisis. National anti-poverty policies largely focused on economic aspects of poverty and there was little attention for other causes of poverty, nor for the consequences.[20]

12. While noting improvement in the area of health care and education, NIHR stated that the level of poverty in Bonaire, St. Eustatius and Saba remained alarming and living conditions of many inhabitants had worsened. Since the introduction of the US dollar as the standard currency in 2012 the inhabitants experienced price increases and reduced purchasing power. This was particularly harmful for the vulnerable groups in society. Poverty was linked with low levels of education and employment, poor quality of housing, addiction to drugs and alcohol and psychiatric symptoms.[21]

13. Migrants often worked many hours and in unsafe conditions. NIHR concluded that labour exploitation continued and migrant workers faced underpayment and being housed in substandard accommodations.[22]

14. NIHR recommended including human rights education in the curriculum.[23]

15. Regarding recommendation no. 98.115,[24] NIHR noted that the Netherlands did not have a fast-track procedure for asylum applications. The eight-day period applied to everyone. Owing to the growing number of refugees, there was a waiting period of from 4 to 7 months before the eight-day period could start. In 2015, NIHR recommended that the Government prioritize the application of children for asylum and of parents for family reunification. However, the recommendation had not been taken into account.[25]

16. Asylum seekers had been generally housed in reception centers. In 2015 asylum seekers were also housed in emergency shelters, including tents, former prisons and sports facilities. It indicated serious shortage of housing for asylum seekers.[26]

III. Information provided by other stakeholders

A. Scope of international obligations[27] and cooperation with international human rights mechanisms and bodies[28]

17. The Commissioner for Human Rights of the Council of Europe (CoE-Commissioner) urged the authorities to ratify ICRMW, OP-CRPD, OP-CRC-IC, OP-ICESCR,[29] and the CoE Convention on preventing and combating violence against women and domestic violence.[30]

18. CoE-Commissioner recommended the withdrawal of the reservation to Article 37 of CRC.[31]

B. National human rights framework[32]

19. CoE-Commissioner noted that the Netherlands Institute for Human Rights (NIHR) was set up by law in 2011 and was granted the "A" status, in 2014, with respect to the Paris Principles. CoE-Commissioner recommended ensuring adequate funding for NIHR.[33]

20. CoE-Commissioner welcomed the launching of the first National Action Plan on Human Rights (NAPHR) in 2013.[34] The NAPHR did not explicitly foresee an assessment of its implementation and was criticised for being based on limited consultations with members of civil society.[35] Amnesty International (AI) observed several structural weaknesses of NAPHR, including a lack of concrete actions on important issues, such as migration, human rights education and respect for human rights while countering terrorism. So far, the implementation of the Plan had been poor and it had not been adequately monitored and evaluated.[36]

21. Joint Submission (JS) 1 recommended developing clear human rights based criteria and indicators for the realisation of the Sustainable Development Goals.[37]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross cutting issues

Equality and non-discrimination[38]

22. Muslims for Progressive Values (MPV) stated that discrimination on the grounds of race, ethnicity, nationality, religion, gender, sexual orientation, gender identity and gender expression persisted within public and private spheres.[39]

23. Regarding the UPR recommendations on discrimination,[40] AI reported that the Government drafted policies on various forms of discrimination, including racial discrimination. However, the policies lacked a timeline for implementation and targets and benchmarks for evaluation.[41]

24. The European Commission against Racism and Intolerance (CoE-ECRI) stated that the acts listed in the criminal law provisions against racism and racial discrimination were not prohibited on grounds of citizenship and language. There was no provision explicitly establishing racist motivation as a specific aggravating circumstance in sentencing.[42]

25. The Committee of Ministers of CoE (CoE-CM) reported that expressions of racism and intolerance continued to be reported by persons belonging to different minority groups.[43] The Advisory Committee on the Framework Convention for the Protection of National Minorities of CoE (CoE-ACFC) referred to reported incidents of anti-Semitism and anti-Muslim.[44] CoE-ECRI noted reports on an increase in anti-Semitic offences at school, at work and in the streets.[45] MPV stated that ostensive Muslims experienced an increase in discrimination and persecution in the public sphere on the basis of religion and religious attire. Muslim women who wore headscarves were more susceptible to discriminatory employment and recruitment processes.[46]

26. CoE-CM stated that the frequency of expressions of hostility towards immigrants in political and public debate had reportedly increased.[47] MPV stated that the Criminal Code, prescribing penalties for publicly disseminating insulting remarks or remarks made to incite hatred and discrimination on the basis of race or religion had not been uniformly applied.[48]

27. In 2013, CoE-ECRI reiterated its recommendation to develop a national strategy and policy against racism and racial discrimination covering various fields of life, which sets out national common targets, mechanisms for implementation, monitoring and evaluation.[49] In 2016, CoE-ECRI reported that no national strategy existed specifically to address racism and racial discrimination. It noted the absence of an effective structural approach to combat racism and racial discrimination at national level.[50]

28. MPV recommended preventing and suppressing manifestation of racism, xenophobia and intolerance against minority groups, in particular Muslims.[51] CoE-CM recommended that the authorities condemn and sanction all manifestations of intolerance, including in political discourse and on the Internet, with due respect to the freedom of opinion and expression and take more resolute measures to encourage a spirit of tolerance and intercultural dialogue in society and prevent stigmatisation of any group.[52]

29. CoE-ECRI recommended that the authorities provide a strong response to violent racist incidents, in particular as concerns the widespread attacks to mosques, with a wide array of measures, from political statements to increased provision of funds earmarked for the security of mosques to the vigorous enforcement of criminal law provisions against racism and racial discrimination.[53]

30. JS3 highlighted the discrimination in the labour market and in particular against older persons and ethnic minorities.[54] CoE-ECRI noted that discrimination complaints in employment reportedly remained the highest category of complaints received by local anti-discrimination services, with discrimination on grounds of race being the most frequent type of complaint.[55]

31. CoE-ECRI recommended ensuring that employers comply with their obligation to identify risks of racial discrimination at the workplace and to develop preventive measures, both in the private and in the public sectors.[56] It recommended resuming targeted policies based on improving the position of certain vulnerable groups in the labour market.[57]

32. AI stated that there was substantial evidence of ethnic profiling by the police. It referred to the 2014 survey data, indicating that significant numbers of people were affected by discriminatory stop-and-searches.[58] MPV and JS3 made similar observations.[59]

33. AI stated that the police and the Minister of Security and Justice were developing measures to prevent ethnic profiling by increasing diversity within the police, conducting training and awareness-raising for police officers, improving police–community relations, and helping citizens to file police complaints. While welcoming these steps, AI noted that more vigorous measures were required to address the root causes of discrimination.[60]

34. MPV recommended eliminating all forms of discrimination and violence against women and children, particularly women and children belonging to ethnic and religious minorities, including Muslim women who faced multiple forms of discrimination with respect to education, employment and social and political participation and ensuring that existing statutes prohibiting gender discrimination are properly implemented and enforced.[61]

35. JS4 noted that the Government extended paternity leave to five paid days instead of two days. This system increased the inequality between men and women in balancing between work and family responsibilities. The Government must invest in gender equality and the empowerment of women by installing paternity leave policies that are adequate in length for each parent (minimum of 12 weeks).[62]

36. JS2 noted existing discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons as well as hate crimes, including violence committed against LGBTI persons and a low level of prosecution against the perpetrators.[63] A draft law had been introduced in the parliament with the aim of abolishing three articles in the penal Code (137 c-e) that protected against discrimination based on amongst other things sexual orientation. If the law were to be adopted, inciting hatred and insulting people on the grounds of their sexual orientation would no longer be punishable. JS2 recommended upholding existing anti-discrimination paragraphs of the Penal Code.[64]

37. Regarding recommendation no. 98.44[65] to combat discrimination in the labour market, in particular targeting transgender people, JS2 reported on a lack of adequate legal protection against discrimination against transgender and intersex people in the labour market. It recommended amending Equal Treatment Act to include explicit prohibition of discrimination on trans and intersex people.[66]

38. JS2 stated that transgender persons under the age of 16 had no access to legal gender recognition. Intersex persons needed a judicial approval and transgender people aged 16 and older needed a letter from a doctor or psychologist to get access to legal gender recognition.[67]

39. JS2 stated that the waiting list for access to medical gender affirmative health care had been long. Not all treatments necessary to complete the transition to male or female were covered or were only partially covered by the basic health insurance. It recommended

inter alia guaranteeing equal access to basic gender affirmative health care through primary health care providers and reimbursement of all aspects of gender affirmative health care.[68]

Development, environment and business and human rights[69]

40. JS1 recommended inter alia developing a set of criteria and indicators to assess the impact of laws, policies and measures on the realisation of those human rights that are related to health and environment; reducing air pollution and greenhouse gas emissions and ensuring the implementation of the Paris Agreement.[70]

Human rights and counter-terrorism

41. AI noted the increasing use of administrative measures in the Government's counter-terrorism policy, without adequate safeguards for review or challenge. It was concerned about two draft laws – the Temporary Administrative (Counter-Terrorism) Measures Act and the Amendment of the Nationality Act to Revoke Dutch Citizenship in the Interest of National Security -- which, if enacted, would enable the Minister of Security and Justice to impose administrative control measures on individuals on the basis of indications that they might pose a future risk to national security and revoke their Dutch nationality and might violate due process standards and place restrictions on individual liberties based on perceived risks rather than established criminal offences.[71]

2. Civil and Political Rights

Right to life, liberty and security of person

42. The ADF International and Minnesota Citizens Concerned for Life Global Outreach (MCCL) reported on the practice of euthanasia and assisted suicide in the Netherlands.[72] ADF International reported that the legislation allowed euthanasia of children between ages of 12 and 18 years.[73] It stated that there were no procedural safeguards to ensure that the law on euthanasia was followed before euthanasia was carried out.[74] MCCL reported that some patients who made no explicit request for death were euthanized and most of such patients were mentally incompetent. It concluded that the practice of euthanasia was not compatible with the right to life, right to health and freedom from discrimination.[75]

43. JS4 stated that the rate of sexual violence was high. Adolescents with low levels of education and with an intellectual disability were at higher risk. There was limited insight related to the prevalence of violence against women and sexual violence in asylum centres.[76]

Fundamental freedoms

44. AI was concerned at the manner in which the growing number of public gatherings had been policed, including unlawful detention of peaceful protesters, confiscation of banners and bans prohibiting assemblies at particular locations. The procedures and instructions for giving notification of upcoming public gatherings varied across the country and failure to give prior notification led to gatherings being halted.[77] It recommended amending the Public Assemblies Act by removing the prohibition on demonstrations due to a lack of prior notification, and updating regulations and introducing police instructions to guarantee the right to peaceful assembly.[78]

Prohibition of all forms of slavery[79]

45. The Group of Experts on Action against Trafficking in Human Beings of CoE (CoE-GRETA) invited the authorities to continue and strengthen their efforts against human trafficking for the purpose of labour exploitation, especially among irregular migrant

workers and to detect victims of trafficking among asylum seekers, in particular unaccompanied foreign minors.[80]

46. CoE-GRETA urged the authorities to ensure that all victims of trafficking in human beings are properly identified and can benefit from assistance and protection measures, in particular by placing the protection of and assistance to possible victims at the heart of the identification system and not linking identification to the prospects of the investigation and prosecution.[81]

Right to privacy

47. JS3 stated that Dutch police and criminal justice authorities had a wide range of powers and possibilities at their disposal that infringed privacy. Dutch figures with respect to telephone tapping were high. The government had proposed a bill that would make it possible for criminal justice authorities to secretly enter computers and mobile phones inside and (sometimes) outside the country, to observe and copy information and even to make information inaccessible.[82] Privacy First Foundation (SPF) urged the Netherlands to either withdraw the bill or to bring it in line with standards on the right to privacy.[83]

48. SPF noted the use of datamining and profiling techniques to discover patterns in large amounts of data from various sources, thus compiling digital profiles about individual persons and groups without them being aware of this.[84] JS3 encouraged the Government to make sure that data gathering and retention for criminal law purposes does not amount to mass surveillance of innocent persons and to put in place adequate safeguards for the use of such data.[85]

49. The European Union Agency for Fundamental Rights (EU-FRA) noted that the draft bill to reform the 2002 Act on intelligence and security services would extend the intelligence service's surveillance capabilities and that European Parliament criticized the draft bill as it would potentially infring on fundamental rights.[86] AI was concerned that the draft law, if enacted, would legitimize sweeping surveillance and interception powers of intelligence and security services and would enable the interception of communications of non-specified groups of individuals as long as the interception is "case-specific". This limitation was vague and the absence of any requirement for a reasonable prior individual suspicion would enable disproportionate interference with private communications. The draft law lacked sufficient safeguards against abuse and its provisions relating to human rights safeguards on the use, retention and destruction of communication data were not sufficient.[87] SPF made similar observations.[88]

50. AI recommended bringing the draft law in line with international human rights standards, including by requiring that the interception of communications is based on individual reasonable suspicion of wrongdoing and authorised by an independent judicial authority and amending the draft law to provide a clear and accessible framework governing intelligence sharing with foreign agencies to prevent the sharing of information that could lead to or result from serious human rights abuses.[89]

3. Economic, Social and Cultural Rights[90]

51. JS1 noted with concern that the Netherlands did not consider provisions of human rights treaties on economic, social and cultural rights to be directly applicable and binding at the national level.[91]

52. CoE-Commissioner regretted that, so far, the Netherlands had not been willing to reconsider its position according to which economic, social and cultural rights only contain general guidance for the Government.[92]

Right to an adequate standard of living

53. JS3 noted statistics showing an increase in the number of 'working poor'. Some individuals had worked several part-time jobs without receiving adequate income. Poverty disproportionally affected women more than men, and many 'working poor' were single mothers.[93]

Right to health

54. JS4 stated that the Government should strengthen the support to women from vulnerable groups to ensure that they are able to make informed decisions about contraceptive use and that they are able to use the preferred contraception method in a consistent way.[94]

55. JS4 stated that the Government must increase access to medical abortion by allowing family doctors to provide the treatment up to 45 days of pregnancy. The five days waiting period should be abolished for all abortions.[95]

Right to education[96]

56. CoE-Commissioner explained that while the non-binding guidelines from the government specify that human rights was an integral part of citizenship education, schools remained free to decide whether to include human rights or not in the broader concept of citizenship education. Human rights were not yet included in the attainment targets for primary and secondary education.[97]

57. AI recalled that the Netherlands considered two UPR recommendations[98] to strengthen human rights education as already implemented. It reported that the Netherlands did not fully comply with its obligation to provide human rights education to school pupils and recommended including human rights education in the mandatory core curriculum of both primary and secondary schools, as well as in teacher training courses.[99]

58. JS4 stated that the Government should strengthen sexuality education in primary, secondary and high schools by ensuring comprehensive sexuality education that includes topics such as sexual diversity, sexual rights and gender equality.[100]

4. Rights of specific persons or groups

Children[101]

59. CoE-Commissioner was concerned at the negative impact of growing child poverty on the enjoyment of the rights of children. He recommended that any envisaged budget cuts should be carefully assessed for their impact on the particularly vulnerable group constituted by children at risk of poverty and social exclusion.[102] Anti-poverty policies specifically geared to children should be developed by municipalities, and the central government should monitor these policies with a view to ensuring that no child is left outside the scope of these measures and that they are effective.[103]

60. CoE-Commissioner remained concerned about the occurrence of child abuse in the context of domestic violence, through the social media or bullying at school. While welcoming the measures taken to combat different forms of child abuse, he invited the authorities to ensure a proactive implementation of the existing tools against child abuse. Additionally, in view of the current decentralisation process, the work of the municipalities in this field should be monitored by the central authorities to ensure that the decentralisation does not impact negatively on the right of children not to be victims of abuse.[104]

61. EU-FRA noted that the new criminal justice bill for juvenile offenders allowed judges to choose between juvenile and adult criminal law in cases of serious felonies committed by juveniles from the age of 16 to 23 years.[105] CoE-Commissioner called on the authorities to increase the current minimum age of criminal responsibility (12 years) and change the law which allows, by way of exception, that some 16 or 17-year-old children are treated as adult criminals.[106]

62. CoE-Commissioner called on the authorities to ensure that the arrest, detention or imprisonment of a child is used only as a measure of last resort; that alternatives to pre-trial custodial settings are made more accessible to ensure that they are fully used in practice; and that pre-trial detention of children is not used beyond the shortest period of time possible. There was a need to ensure that police custody of juveniles better complies with child-friendly justice as laid down in international legal standards.[107]

Persons with disabilities[108]

63. CoE-Commissioner was concerned about the fact that many children with disabilities were segregated from their peers in the education system. The 2014 Appropriate Education Act represented a step in the right direction. However, the new arrangements fell short of adopting inclusive education as a fundamental principle.[109]

64. CoE-Commissioner was concerned that the number of students attending special needs schools had increased. As concerns mainstream schools, many teachers were said to experience difficulties in supervising students with specific educational needs and in adapting their teaching to the different needs in their classrooms. In some cases, children with disabilities received no education because they were staying at an institution or childcare centre.[110]

65. JS6 noted that funding for research into Down syndrome had been reportedly shrinking.[111]

66. EU-FRA stated that the 2015 Participation Act introduced wage subsidies and job coaching for employers who hired persons with disabilities. Additionally, the 2015 Quota Act required employers with 25 or more employees to hire a percentage of persons with disabilities. Employers in the private and public sectors that did not meet their targets would incur fines.[112]

Minorities[113]

67. CoE-CM stated that the use of Frisian Act, which came into force in 2014, recognised Frisian as the second national language. Substantive efforts had been made to provide persons belonging to the Frisian minority with increased opportunities to learn the Frisian language in all levels of education. However, the amount of Frisian teaching as an obligatory subject was still very low and the lack of suitable trained teachers for Frisian language remained a concern among the Frisian minority.[114]

68. CoE-ACFC stated that despite efforts made on local level to improve the integration of Roma and Sinti communities, persons belonging to these communities continued to face discrimination in various fields. The lack of a specific national Roma policy and the absence of an adequate consultative mechanism to promote their effective participation in decision making on issues of concern to them reinforced their difficulties.[115]

69. CoE-ECRI recommended drawing up, in close co-operation with the Roma, Sinti and Traveller communities and the municipalities, a comprehensive strategy aimed at reducing the disadvantage and discrimination these communities faced and make available adequate resources to implement it. The strategy should set clear targets and provide methods for evaluating the progress achieved.[116]

Migrants, refugees and asylum seekers[117]

70. CoE-Commissioner was concerned at the extensive use of administrative detention of asylum seekers and immigrants.[118] AI stated that alternatives to detention were rarely offered.[119]

71. Regarding the UPR recommendation[120] to reduce the number of persons held in detention centres for immigration purposes, AI noted some policy changes in 2013 that were aimed at ensuring that irregular migrant families with children under the age of 18 were detained only in exceptional cases. In 2014, a special closed facility was opened in Soesterberg for the detention of unaccompanied children and families with children, in small houses rather than cells. AI noted that this still constituted detention.[121]

72. Regarding the UPR recommendations[122] to reduce immigration detention and promote alternatives to such detention, AI reported that alternatives to detention were rarely offered.[123]

73. CoE-Commission noted the concern expressed by the United Nations Committee against Torture at reports that the maximum duration of 18 months for detention pending deportation was not strictly observed in practice. About 30 per cent of immigrants were reportedly detained for periods longer than 18 months. Once they had been released from previous detention, they were again being apprehended by the police and placed in detention due to the absence of a valid residence permit.[124] AI stated that administrative immigration-related detention was not automatically or promptly reviewed by a judge.[125]

74. CoE-Commissioner stated that detention conditions were reported to be harsher for foreigners in administrative detention than for convicted prisoners.[126] AI was concerned by the continued use of isolation cells and solitary confinement in immigration detention.[127]

75. CoE-Commissioner stated that the draft law on migrant detention and return foresaw more recreational activities and shorter time during which immigrants were detained in their cells. However, he noted the view of human rights NGOs that those improvements generally remained insufficient.[128] AI considered that the draft law was not expected to lead to significant improvements and that it did not change the fact that individuals in migration detention were locked up in a cell for many hours a day, not permitted to work and subject to a range of disciplinary measures.[129]

76. AI recommended that the Government always give priority to the use of alternatives to migration detention and ensure that vulnerable individuals and children are never held in detention.[130] CoE-Commissioner made similar recommendations.[131]

77. AI recommended preventing repeated detention, and never exceeding the time limit for immigration detention under the European Union Returns Directive and ensuring automatic and prompt judicial review of all cases of immigration-related detention to determine its lawfulness, necessity and proportionality.[132]

78. AI recommended that immigration detention centres do not use locked cells and that the authorities put an immediate end to the use of isolation and solitary confinement as punitive measures in immigration detention centres by ensuring that isolation is limited to situations in which a person is a danger to him- or herself or to others.[133] CoE-Commissioner urged the authorities to continue and strengthen their efforts in improving access to healthcare of immigrants in administrative detention.[134]

79. CoE-Commissioner urged the authorities to abandon the current criminal detention regime applicable to detention pending deportation and to opt for a non-punitive regime in all cases of administrative detention of foreigners.[135] JS3 made a similar recommendation.[136]

80. CoE-Commissioner was concerned at the current human rights situation of immigrants staying irregularly in the Netherlands.[137] JS3 stated that undocumented migrants had no (legal) status or work and no insurance to cover for health care expenses. They were refused access to food and shelter. It recommended ensuring that undocumented migrants at risk of destitution have unconditional access to basic needs.[138]

Stateless persons

81. CoE-Commissioner noted the lack of an adequate procedure to identify stateless persons and determine statelessness.[139] JS5 explained that only stateless persons who were legally residing in the country and who had documentary evidence to prove their stateless status beyond doubt could be recorded as 'stateless' in the population register. The requirement of legal stay and the substantial burden of proof likely caused a large number of stateless (and at risk) individuals to go unidentified.[140] It stated that the lack of statelessness determination procedure was a concern, as the failure to identify statelessness or the risk of statelessness before a decision to remove or detain was made often resulted in persons being arbitrarily detained.[141]

82. JS5 stated that the law had only allowed children born in the country, who had been stateless since birth, the right to opt for Dutch citizenship after an uninterrupted period of at least three years of legal residence. Thus, some children born in the country would not be able to acquire Dutch nationality because their parents were irregular migrants. In 2014, the Government proposed a provisional amendment to the Dutch Nationality Act that aimed at enabling stateless children born in the Netherlands with no legal residence to opt for Dutch citizenship. The proposed amendment partially addressed the above concerns, as it retained some problematic conditions.[142]

83. JS5 recommended, inter alia, expediting efforts to introduce a statelessness determination procedure, strengthen statistical data on statelessness and build the capacity of relevant administrative and judicial bodies to proactively identify and address situations of statelessness. It recommended ensuring that every child born in the Netherlands, who would otherwise be stateless, has the right to acquire Dutch nationality in accordance with the international obligations.[143]

5. Specific regions or territories[144]

84. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE-CPT) recommended that the Aruban, Curaçao and Sint Maarten authorities deliver the clear message to prison officers that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of sanctions[145] and ensure that all persons arrested have the right of access to a lawyer from the very outset of their deprivation of liberty, including during any police interview. Such a right should include access to an ex officio lawyer, if required.[146]

85. CoE-CPT recommended that the Curaçao and Aruban authorities take the necessary steps to recognise the principle of free and informed consent to treatment in psychiatric establishment.[147]

86. CoE-CPT recommended that the Curaçao authorities make every effort to find alternative solutions to long-term detention at police stations.[148]

87. CoE-CPT recommended that the authorities of Sint Maarten adopt and implement a coherent strategy designed to combat prison overcrowding.[149]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

ADF International	Alliance Defending Freedom International (Geneva) Switzerland;
AI	Amnesty International, London (United Kingdom);
FFF	Four Freedoms Forum, Kanesse (United States of America);
GOOD Group	Global Organising for Optimal Dignity and Diplomacy Group, Honolulu, United States of America;
INDIGENOUS	International Network for Diplomacy Indigenous Governance Engaging in Nonviolence Organising for Understanding and Self-Determination, Kaneohe (United States of America);
MPV	Muslims for Progressive Values, Los Angeles (United States of America);
MCCL	Minnesota Citizens Concerned for Life Inc. Education Fund, Minneapolis (United States of America);
OHR	Oceania Human Rights Hawaii, Kailua, United States of America;
SPF	Privacy First Foundation (Stitching Privacy First, SPF) Amsterdam (The Netherlands);

Joint submissions:

JS1	Joint submission 1 submitted by: Stand UP for Your Rights (SUPYR); Milieudefensie (Friends of the Earth Netherlands) and Women (Netherlands);
JS2	Joint submission 2 submitted by: Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit – COC Nederland; Nederlands Network voor Intersekse/DSD – NNID; and Transgender Netwerk Nederland – TNN (Netherlands);
JS3	Joint submission 3 submitted by: the Dutch section of the International Commission of Jurists (NJCM) and Kompass Netherlands, in collaboration with Controle Alt Delete, Cordaid, Defence for Children/ECPAT Netherlands, the Dutch Council for Refugees (Vluchtelingenwerk), the Dutch CEDAW-Network (Netwerk VN-Vrouwenverdrag), Ieder(in): Dutch Council for Persons with Disabilities, Internet Society Nederland, Justice and Peace Netherlands, the National Association of Regional NGO's Against Discrimination (LVTD), the Netherlands Platform on Human Rights Education, the Netherlands Trade Union Confederation (FNV), the Netherlands Helsinki Committee (NHC), New Urban Collective, RADAR/Artikel 1, Stichting Landelijk Ongedocumenteerden Steunpunt (LOS), Stichting Overlegorgaan Caribische Nederlanders (OCAN), TIYE International, UNICEF Netherlands and Vereniging Asieladvocaten & Juristen Nederland (VAJN) (Netherlands);
JS4	Joint submission 4 submitted by: Rutgers (Netherlands) and Sexual Rights Initiative (a coalition of organizations from Canada, Poland, India, Argentina and Africa);
JS5	Joint submission 5 submitted by: Institute on Statelessness and Inclusion (Netherlands), ASKV Refugee Support (Netherlands), European Network and Statelessness (United Kingdom) and Defence for Children (Netherlands);
JS6	Joint submission 5 submitted by: Jerôme Lejeune Foundation, Paris (France) and Downpride (Netherlands);

National human rights institution:

NHR	The Netherlands Institute for Human Right, Utrecht (The Netherlands);

Regional intergovernmental organization(s):

CoE	The Council of Europe, Strasbourg (France);

Abbreviations:

(CoE-Commissioner) Report by Mr. Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to the Netherlands from 20 to 22 May 2014. Strasbourg, CommDH (2014) 16.

(CoE-ECRI) European Commission against Racism and Intolerance report on the Netherlands (forth monitoring cycle), adopted on 20 June 2013, published on 15 October 2013, CRI (2013) 39.

(CoE-ECRI Conclusions) European Commission against Racism and Intolerance's conclusions on the implementation of the recommendations in respect of the Netherlands subject to interim follow-up, adopted on 17 March 2016, CRI (2016) 24.

(CoE-CM) Resolution of the Committee of Ministers on the implementation of the Framework Convention for the Protection of National Minorities by the Netherlands, adopted at the 1200th meeting of the Ministers' Deputies (CM/ResCMN (2014) 5).

(CoE-ACFC) Advisory Committee on the Framework Convention For The Protection Of National Minorities, Strasbourg, Second Opinion on the Netherlands adopted on 20 June, 2013 ACFC/OP/II (2013) (03).

(CoE-CPT) Report to the Government of the Netherlands on the visit to Caribbean part of the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 12 to 22 May, 2014, CPT/Inf (2015)27.

(CoE-GRETA) - Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands, First Evaluation Round, Strasbourg, 21 March, 2014, GRETA (2014)10.

FRA European Union Agency for Fundamental Rights, Vienna (Austria)

[1] For relevant recommendations see A/HRC/21/15, paras. 98.5 – 98.11, 98.15, 98.16, 98.21 – 98.30, 98.32, 98.35, 98.34, 98.35, 98.36, 98.38, 98.39, 98.40 – 98.44, 98.50, 98.53, 98.55, 98.59, 98.60, 98.62, 98.65, 98.68, 98.84, 98.92, 98.93, 98.94, 98.95, 98.97, 98.99, 98.102, 98.104, 98.107, 98.111 and 98.115.

[2] NHR, para. 5.

[3] NHR, Annex, p. 2. See also CoE-CPT, para. 10.

[4] For the full text of the recommendation see A/HRC/21/15, para. 98.27 (Philippines).

[5] NHR, para. 2 and Annex, p. 9.

[6] NHR, Annex, p. 8.

[7] For the full text of the recommendation see A/HRC/21/15, para. 98.44 (France).

[8] NHR, para. 11.

[9] NHR, paras. 20 and 21.

[10] NHR, paras. 15 and 17.

[11] NHR, Annex, pp. 15-16.

[12] NHR, para. 23.

[13] For the full text of the recommendation see A/HRC/21/15, para. 98. 39 (United States of America).

[14] NHR, Annex, pp. 9-10.

[15] For the full text of the recommendation see A/HRC/21/15, para. 98. 84 (France).

[16] NHR, Annex, p. 44.

[17] For the full text of the recommendation see A/HRC/21/15, para. 98. 102 (Ukraine).

[18] NHR, Annex, p. 44.

[19] NHR, Annex, p. 29.

[20] NHR, paras. 31 and 32.

[21] NHR, Annex, p. 18.

[22] NHR, paras 7 and 10.

[14] For the full text of the recommendation see A/HRC/21/15, para. 98. 102 (United States of America).
[15] NHR, Annex, p. 49.
[16] NHR, Annex, p. 31.
[17] The following abbreviations are used in UPR documents:

ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
CRC	Convention on the Rights of the Child
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD

[18] For relevant recommendations see *A/HRC/21/15*, paras. 98.1 - 98.16.
[19] See also MPV, p. 10 and JS3, p. 8.
[20] CoE-Commissioner, para. 65 and CoE, p. 3. See also HIF, pp. 1-2.
[21] CoE-Commissioner, para. 157.
[22] For relevant recommendations see A/HRC/21/15, paras. 98. 21 - 98.25, 98.27- 98.30.
[23] CoE-Commissioner, p. 3 and para. 20. See also JS1, p. 4 and CoE-ECRI, para. 50.
[24] CoE-Commissioner, para. 26 and p. 3.
[25] CoE-Commissioner, paras. 28 and 29. See also JS3, Section VII, p. 9.
[26] AI, p. 3. See also JS3, p. 9. See also Indigenous, p. 1.
[27] JS1, p. 5. See also OHR, p. 2.
[28] For relevant recommendations see A/HRC/21/15, paras. 98.34, 98.36, 98.38, 98.39, 98.40 - 98.51, 98.53- 98.56, 97.57, 98.59 – 98.70, 98.74, 98.87, 98.88, 98.89, 98.92, 98.93, 98.96, 98.103.
[29] MPV, p. 10.
[30] See A/HRC/21/15, recommendations 98.38 (Iran), 98.40 (Thailand), 98.42 (Egypt), 98. 83 (Egypt), 98.44 (France), 98.45 (Poland), 98.47 (Iran), 98.48 (Malaysia), 98.49 (Mexico), 98.50 (Nicaragua), 98.52 (Pakistan), 98.53 (Pakistan), 98.54 (Hungary), 98.55 (Qatar), 98.57 (Russian Federation), 98.58 (Spain), 98.59 (Thailand), 98.60 (Turkey), 98.61(Uruguay), 98.63 (Algeria), 98.65 (Bangladesh), 98.66 (Bangladesh), 98.67 (Botswana), 98.69 (Costa Rica), 98.70 (Cuba), 98.74 (Guinea), 98.87 (Indonesia), 98.88 (Malaysia).
[31] AI, p. 2.
[32] CoE-ECRI, p. 7. See also CoE, p. 4.
[33] CoE-CM, para. 10(c).
[34] CoE-ACFC, para. 18.
[35] CoE-ECRI, para. 143.
[36] MPV, p. 2.
[37] CoE-CM, para. 10(b). See also CoE-CM, para. 10 and CoE-ECRI, p. 7.
[38] MPV, p. 3.
[39] CoE-ECRI, para. 59. See also CoE, p. 4.
[40] CoE-ECRI Conclusions, para. 2.
[41] MPV, p. 10.
[42] CoE-CM, para. 2. See also MPV, pp. 4 and 10.
[43] CoE-ECRI, para. 130.
[44] JS3, Section VI, p. 7. See also MPV, p. 4.
[45] CoE-ECRI, para. 67. See also p. 7.
[46] CoE-ECRI, para. 82. See also MPV, p. 4.
[47] CoE-ECRI, para. 68.
[48] AI, p. 6.
[49] MPV, p. 3 and JS3, Section II.
[50] AI, p. 6. See also JS3, Section II.
[51] MPV, p. 10.
[52] JS4, paras. 21, 22 and 35.
[53] JS2, paras. 5 and 18. See also MPV, p. 6.
[54] JS2, para. 6.
[55] For the full text of the recommendation see A/HRC/21/15, para. 98.44 (France).

[62] JS2, paras. 65-69.
[63] JS2, para. 7. See also EU-FRA, p. 10.
[64] JS2, para. 28, 29 and 31.
[65] For relevant recommendations see A/HRC/21/10, paras. 98.35 and 98.97.
[66] JS1, p. 6 and 7, 8, 9. See also CHR, pp. 1 and 2.
[67] All, p. 4.
[68] ADF International, pp.1-4 and MRCI, paras. 2-7 and 12-15.
[69] ADF International, para. 6. See also MRCI, para. 3.
[70] ADF International, paras. 9 and 24.
[71] MRCI, paras. 5, 17 and 28.
[72] JS4, paras. 19 and 33.
[73] All, p. 6.
[74] All, p. 8.
[75] For relevant recommendations see A/HRC/21/10, para. 98.80.
[76] Coll-GRETA, p. 10.
[77] Coll-GRETA, p. 10. See also EU-FRA, p. 12.
[78] JS3, Section IV, p. 4. See also MPF, pp. 4-7.
[79] MPF, p. 7. See also JS3, Section IV, p. 5.
[80] MPF, p. 4.
[81] JS3, Section IV, p. 4. See also MPF, p. 4 and Coll-Commissioner, para. 72.
[82] EU-FRA, p. 9.
[83] All, p. 5. See also JS3, Section IV.
[84] MPF, pp. 4-7.
[85] All, p. 8. See also MPF, p. 7 and Coll-Commissioner, paras. 70-73.
[86] For relevant recommendations see A/HRC/21/10, paras. 98.35, 98.97.
[87] JS3, p. 3.
[88] Coll-Commissioner, para. 67.
[89] JS3, Section VI, p. 6.
[90] JS4, para. 27. See also paras. 17-18.
[91] JS4, para. 29.
[92] For relevant recommendations see A/HRC/21/10, paras. 98.33, 98.98 and 98.99.
[93] Coll-Commissioner, para. 35.
[94] See A/HRC/21/10, recommendations 98.98 (Spain) and 98.99 (Azerbaijan).
[95] All, pp. 2 and 7. See also JS3, Section V, p. 6, Coll-Commissioner, para. 69 and CoE-ECRI, para. 234.
[96] JS4, para. 23. See also JS3, Section V and The G(0.0) group, pp. 1 - 2.
[97] For relevant recommendations see A/HRC/21/10, paras. 98.18, 98.35, 98.75, 98.77, 98.78, 98.81, 98.82, 98.83, 98.84.
[98] Coll-Commissioner, para. 165.
[99] Coll-Commissioner, pp. 4-5. See also EU-FRA, p. 9.
[100] Coll-Commissioner, p. 5.
[101] EU-FRA, p. 9.
[102] Coll-Commissioner, p. 4 and Coll., p. 3. See also para. 156.
[103] Coll-Commissioner, paras. 158 - 159.
[104] For relevant recommendations see A/HRC/21/10, para. 98.102.
[105] Coll-Commissioner, p. 5 and para. 180.
[106] Coll-Commissioner, para. 183.
[107] JS6, p. 3.
[108] EU-FRA, pp. 4-5.
[109] For relevant recommendations see A/HRC/21/10, para. 98.111.
[110] Coll-CM, para. 1.
[111] Coll-CM, para. 19. See also Coll-EURI, p. 8.
[112] Coll-EURI, para. 165.
[113] For relevant recommendations see A/HRC/21/10, paras. 98.19, 98.100, 98.106, 98.107, 98.108, 98.110, 98.112 - 98.115, 98.117.
[114] Coll-Commissioner, p. 3 and para. 76, and Coll., p. 3.

[119] AI, pp. 1-2.
[120] For the full text of the recommendation see A/HRC/21/15, recommendation 98.108 (Sweden).
[121] AI, p. 1. See also CoE-Commissioner, para. 90.
[122] For the full text of the recommendations see A/HRC/21/15, recommendations 98.108 (Sweden), 98.112 (Brazil) and 98.113 (Ecuador).
[123] AI, p. 2.
[124] CoE-Commissioner, para. 97. See also AI, p. 3.
[125] AI, p. 4.
[126] CoE-Commissioner, para. 92.
[127] AI, p. 4. See also JS3, Section III and JS5, para. 36.
[128] CoE-Commissioner, para. 92. See also AI, p. 1.
[129] AI, p. 2.
[130] AI, p. 7.
[131] CoE-Commissioner, paras. 100 and 101.
[132] AI, p. 7.
[133] AI, p. 7. See also JS3, Section III.
[134] CoE-Commissioner, para. 105.
[135] CoE-Commissioner, para. 104.
[136] JS3, Section III.
[137] CoE-Commissioner, para. 126. See also para. 108 and p. 4.
[138] JS3, Section III, pp. 2-3.
[139] CoE-Commissioner, para. 134. See also JS5, para. 23.
[140] JS5, para. 11. See also CoE-Commissioner, paras. 136 and 138.
[141] JS5, para. 32.
[142] JS5, paras. 16 and 18.
[143] JS5, para. 40. See also CoE-Commissioner, p. 4 and CoE-ECRI, para. 173.
[144] For relevant recommendations see A/HRC/21/15, paras. 98.26, 98.34 and 98.73.
[145] CoE-CPT, paras. 77, 148, 194 and 238.
[146] CoE-CPT, paras. 55, 130 and 228.
[147] CoE-CPT, paras. 115 and 219.
[148] CoE-CPT, para. 142.
[149] CoE-CPT, para. 236.